

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/767,638  
Confirmation No.: 5416  
Filing Date: January 29, 2004  
Examiner: Celia C. Chang  
Group Art Unit: 1625  
Applicants: Paul S. Charifson et al.  
For: GYRASE INHIBITORS AND USES THEREOF

April 16, 2008  
Cambridge, Massachusetts

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER UNDER 37 C.F.R. § 1.321(b) and (c)

Dear Sir:

VERTEX PHARMACEUTICALS INCORPORATED, a corporation organized and existing under the laws of the Commonwealth of Massachusetts, having an office and place of business at 130 Waverly Street, Cambridge, Massachusetts 02139-4242 ("VERTEX"), represents that it is the assignee of record of the entire right, title and interest of the patent applications identified below by virtue of the following:

United States Patent Application No. 10/986,569 ("the '569 application"), filed on November 11, 2004, United States Patent Application No. 10/971,573 ("the '573 application"), filed on October 21, 2004, and United States Patent Application No. 10/901,928 ("the '928 application"), filed on July 29, 2004, are each a continuation-in-part of United States Patent Application No. 10/767,638, filed January 29, 2004 ("the '638 application").

An assignment of the entire right, title and interest in and to the subject matter of the '638 application was recorded in the United States Patent and Trademark Office on January 29, 2004 at Reel/Frame 014946/0630.

An assignment of the entire right, title and interest in and to the subject matter of the '569 application was recorded in the United States Patent and Trademark Office on May 2, 2005 at Reel/Frame 016186/0791.

An assignment of the entire right, title and interest in and to the subject matter of the '573 application was recorded in the United States Patent and Trademark Office on May 2, 2005 at Reel/Frame 016186/0750.

An assignment of the entire right, title and interest in and to the subject matter of the '928 application was recorded in the United States Patent and Trademark Office on October 28, 2004 at Reel/Frame 015303/0035.

The undersigned, on behalf of VERTEX, hereby disclaims the terminal portion of any patent granted on the '638 application, that would extend beyond the expiration date of any patent granted on any of the '569, '573 and '928 applications. The undersigned, on behalf of VERTEX, agrees that any patent so granted on the '638 application shall be enforceable only for and during such period as the legal title to said patent shall be the same as the legal title to any patent granted on any of the '569, '573 and '928 applications, this agreement to run with any patent granted on the '638 application and to be binding upon the grantee of the patent and its successors and assigns.

The undersigned does not disclaim any terminal portion of any patent granted on the '638 application prior to the full statutory term of any patent granted on any of the '569, '573 and

‘928 applications in the event that any patent granted on any of the ‘569, ‘573 and ‘928 applications subsequently (a) expires for failure to pay a maintenance fee, (b) is held unenforceable, (c) is found invalid by a court of competent jurisdiction, (d) is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a), (e) has all claims canceled by a reexamination certificate, or (f) is otherwise terminated prior to expiration of its statutory term, except for the separation of legal title stated above.

The undersigned hereby states and certifies that:

1. The undersigned is an agent of record in the above-identified patent application and is authorized to act on behalf of assignee corporation in connection with said application; and

2. The above-identified assignment document has been reviewed and, to the best of the undersigned’s and assignee’s knowledge and belief, title to any of the ‘569, ‘573 and ‘928 applications and to the ‘638 application is in assignee.

Respectfully submitted,

/Michael C. Badia/  
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